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JUN 25 2008

OFFICE OF PETITIONS

In re Application of Cunningham :
Application No. 10/677,208 : Decision on Petition
Filing Date: October 2, 2003 :
Attorney Docket No. 2874 (203-3510) :

This is a decision on the petition under 37 CFR 1.137(a), filed March 17, 2008, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

Facts:

The Office mailed a non-final Office action on August 9, 2007.

Petitioner filed a reply to the Office action and a request for a two-month extension of time on January 11, 2008. The Certificate of Mailing date on the reply was January 9, 2008.

The reply papers inadvertently listed the application number as 10/667,208, rather than 10/677,208. The reply papers were matched with the incorrect application.

A reply was not matched with the instant application. As a result, the application was held abandoned and a Notice of Abandonment was mailed on February 14, 2008.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

Petitioner has satisfied both criteria listed above.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The papers filed January 11, 2008, have been transferred to the correct application file.

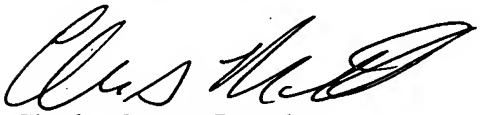
Upon receipt of the January 11, 2008, the Office charged $460 for a two-month extension of time and $150 for excess claims to petitioner's deposit account. These fees have now been credited to the instant application.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee has been credited back to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Technology Center Art Unit 3734 will be informed of the instant decision. The papers filed January 11, 2008, will be entered into Office PALM records and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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